

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on February 18, 2003 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Dale Mahlum (R)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Trudi Schmidt (D)

Members Absent: None.

Staff Present: Jane M. Hayden, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 179, 2/18/2003
Executive Action: SB 179 on the same day, but on the
tape labeled for SB 403

HEARING ON SB 179

Sponsor: **SENATOR BEA MCCARTHY**

Proponents: **Fred Easy**, Prickley Pear Sportmen Association
Janet Ellis, Montana Audubon

Opponents: None.

Opening Statement by Sponsor:

SENATOR BEA MCCARTHY testified that the purpose of SB 179 is to modify the game release component of the Upland Game Bird Habitat Enhancement Program by eliminating habitat consideration when releasing the birds and increasing the funds available. The Upland Game Bird Act has been an ongoing problem. Apparently, nobody involved in the process set down by the Act, has been happy. **SENATOR MCCARTHY** stated that she will let **Mike Wingard** of the Legislative Auditor Division (LAD) explain SB 179. SB 179 combines the efforts of the LAD and the Department of Fish, Wildlife, and Parks (FWP) because it was the only way to cover the issues involved. **SENATOR MCCARTHY** handed out a copy of an amendment to be revise Page 2, Line 8, of SB 179. **SENATOR DEBBIE SHEA** agreed to sponsor the amendment.

Informational Testimony:

Mike Wingard, Performance Audit Manager, LAD, testified that LAD is neither a proponent nor an opponent of SB 179. SB 179 increases the release of pheasants while decreasing the involvement of FWP in the Program. Its major components are that landowners who allow public hunting can seek compensation for verified pheasant releases, and the key to that is that there would be no pre-qualifications based on the quality of the habitat by FWP personnel. Landowner reimbursement would be a first-come-first-served basis, and reimbursement would be limited to a maximum of \$1500 per applicant. SB 179 puts a maximum expenditure for the entire release program at \$100,000 per year. One other critical component of SB 179 is the verification of releases which used to be done FWP, but could be done by a private department or other government officials. **SENATOR MIKE SPRAGUE** asked **Mike Wingard** if he was aware of the amendment. **Mr. Wingard** answered that he was.

Proponents' Testimony:

Janet Ellis, Montana Audubon, testified that SB 179 helps separate the Upland Game Bird Program's release portion from the habitat portion. There has been a lot of controversy, and Montana Audubon has been involved in the hearings. The bill is a step in the right direction and we support SB 179.

Fred Easy, Prickley Pear Sportsmen Association, Helena, testified that his Association supports SB 179, but has problems

with it. The main problem is earmarking \$100,000 for releasing birds without regard to the habitat. The current program allows for youth groups, 4-H groups and sports groups to participate, but SB 179 earmarks \$100,000 and gives preference to pheasant farmers and those who want to release birds for "shoot and kill." SB 179 needs to be amended to include a suitable habitat as a standard, and to give youth organizations preference in raising birds for release.

Opponents' Testimony: None given.

Informational Testimony:

EXHIBIT(fis36b01) and EXHIBIT(fis36b02)

Chris Smith, Department of Fish, Wildlife, and Parks (FWP), testified that there has been considerable debate on SB 179. The Program was audited in the year 2000, and the audit resulted in a number of recommendations to FWP to change the management of the Program. In 2002, a follow-up audit by LAD confirmed that FWP had fully implemented three of the 2000 Audit's recommendations, and FWP was in the process of implementing the remaining three.

Questions from Committee Members and Responses:

SENATOR DALE MAHLUM asked **Chris Smith** within the \$100,000 Program limit, does FWP give the landowner \$1500 so pheasants can be released on his land. **Mr. Smith** responded that SB 179 changes that law which currently sets aside 15 percent of the annual revenue, but does not provide an individual cap. Under SB 179 \$100,000 is set aside instead of a percentage, and then sets an individual cap of \$1500 per landowner. In exchange for that, it reduces and releases some of the administrative oversights and constraints in the process of raising and releasing the birds. The existing program is a rather elaborate administrative process. SB 179 would greatly streamline the release process, and the \$1500 cap safeguards against someone abusing it.

SENATOR MAHLUM asked **Chris Smith** to receive the \$1500, does the landowner have to be the producer and the releaser of the pheasants. **Mr. Smith** responded that the landowner does not have to be the producer, just the releaser to receive the \$1500.

SENATOR MAHLUM asked **Chris Smith** if the landowner's land

was posted "No Hunting," could he receive \$1500 for just releasing pheasants on it. **Mr. Smith** responded that the language on Page 1, Line 27, of SB 179 prohibits that.

SENATOR DEBBIE SHEA asked **SENATOR LINDA NELSON** will SB 179 address the concerns that former **SENATOR ED SMITH** has about this Program. **SENATOR LINDA NELSON** responded that **SENATOR SMITH** will be attending the Senate Fish and Game Committee meeting next week, and recommended asking him at that time.

SENATOR GREG BARKUS asked **Chris Smith** to reference the Upland Bird Study, Table 2, Page 9. In 1990, FWP spent about \$21,000 in Sheridan County. In 1992, FWP spent about \$5000, and then for quite a few subsequent years, nothing was spent. The Program was a failure, was it not. **Mr. Smith** asked in what context? **SENATOR BARKUS** replied the Program was a failure in terms of bird survival rate and return for the dollars spent. **Mr. Smith** explained that FWP has never believed that pheasant releases are an effective, let alone cost-effective means for enhancing upland game bird populations. That is why FWP's emphasis has always been on the habitat side of this Program, but not everyone agrees with FWP.

SENATOR BARKUS asked **Mr. Smith** to explain how in 1996 FWP spent \$240,000 in Carter, Daniels and Sheridan Counties. **Mr. Smith** stated that particularly between 1997 through 1999, a small number of individuals undertook raising and releasing pheasants in a big way, and raised many thousands of birds and were guaranteed payment of \$3 per bird. As long as these producers could find private land to release the birds onto, FWP was obligated to pay them and survival rates of the birds were very low. This situation led to the changes in the Program in 1999 and 2000.

SENATOR BARKUS asked **Chris Smith** if there had been any studies that show that habitat is no longer a critical factor for pheasant survival. **Mr. Smith** answered that there were not studies to his knowledge that would state that, and in fact, the opposite would be true. As the body of information on upland bird biology advances, the importance of habitat is shown to be critical.

SENATOR MIKE SPRAGUE asked **Chris Smith** if the audit was directed around success ratios, survival rates, or was it more of an audit of equity in terms of some of the people get all the attention (money)--what was proved by the audit. **Mr. Smith** responded that the audit was designed primarily to look at administration of the Program and to determine if there was adequate financial controls and management systems in place to

insure consistent implementation according to the statutes and the rules. The audit did not address biological issues associated with the value of releases versus the habitat aspects of the Program. It is exactly the absence of scientific evaluations on the merits of the Program's two elements that led **REPRESENTATIVE JIM SHOCKLEY** to introduce HB 241. HB 241 addresses habitat issues and the scientific merits of the Program, and so in two years if HB 241 is passed, we will have solid scientific analysis.

SENATOR MIKE SPRAGUE asked **Mike Wingard** what did the audit show. **Mr. Wingard** stated that the first audit issued in December 2000, primarily focused on habitat. The second audit looked at administration and management controls.

SENATOR SPRAGUE asked **Mr. Wingard** if SB 179 addresses the audit's concerns. **Mr. Wingard** answered that SB 179 answers none of the concerns or recommendations presented in the audit. SB 179 primarily involves more pen-raised pheasants with less involvement of FWP, which are not part of LAD's recommendations.

Closing by Sponsor:

SENATOR BEA MCCARTHY testified that most of the criticism of the Program was use of money for inappropriate purposes. The Program's money has been milked by a few individuals in a small number of counties. SB 179 is introduced with the intent of correcting this situation.

EXECUTIVE ACTION ON SB 179
On tape of SB 403, same day.

Motion: SEN. MCGEE moved that SB 179 DO PASS.

Mary Vandenbosch explained the limits of the upland game birds' amendment, stating that landowners are just one component of the Program.

SENATOR DEBBIE SHEA discussed the most compelling reasons, some abuse concerning landowners' definition.

Motion/Vote: SENATOR MIKE SPRAGUE moved a DO PASS on the AMENDMENT. Motion PASSED unanimously.

Motion: SENATOR DEBBIE SHEA moved that SB 179 DO PASS AS AMENDED.

SENATOR SHEA then discussed the concerns of dumping birds, in length.

SENATOR GREG BARKUS speaks against **SENATOR SHEA's** motion and states that habitat is eroded from efficient farming. SB 179 says that habitat is not important, the Program is just feeding the coyotes and fox. The Program does not work.

Motion/Vote: SEN. BARKUS moved that SB 179 BE INDEFINITELY POSTPONED. Motion PASSED unanimously.

ADJOURNMENT

Adjournment: 5:25 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE M. HAYDEN, Secretary

MS/JMH

EXHIBIT (fis36bad)